REMARKS

The Office Action mailed November 2, 2006 considered claims 1-35. Claims 31-34 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1, 3-5, 8-10, 31 and 32 were rejected under 35 U.S.C. 102(e) as being anticipated by Beck et al. (US 6,968,540) hereinafter *Beck*. Claim 7 was rejected under 35 U.S.C. 103(a) as being obvious over *Beck*. Claims 2, 6, 11-21, 23-30, and 33-35 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Beck* in view of Witchel et al. (US 6,748,584) hereinafter *Witchel*.[1]

By this paper claims 1-35 have been cancelled, and new claims 36-46 have been added, of which claims 36 and 46 are the only independent claims. Claims 36-46 are the only independent claims pending in the application. Applicants have redrafted the claims to facilitate understanding of the claimed invention.

The invention is generally directed to testing software builds and increasing code coverage (i.e. testing greater percentages of software code) by tracking differences between software builds and testing new or changed portions between software builds. This is accomplished by creating dictionaries for each software build, comparing the dictionaries, and testing new or changed classes. For example, claims 36 recites scanning a first binary software build of a software product to automatically discover classes in the first binary software build, discovering dependencies of the discovered classes, storing a first dictionary data structure including the discovered classes with their corresponding discovered dependencies, comparing the first dictionary data structure with a second dictionary data structure, the second dictionary data structure including classes organized with their dependencies of a second binary software build of the software product by comparing classes and dependencies set forth in the first and second dictionary data structures, providing an indication of differences between the first and second binary software builds. Claim 46 is a computer program product embodied on a *physical* computer readable medium with computer executable instructions for performing the method of claim 36.

The art cited in the present Office Actions fails to show, among other things, "comparing the first dictionary data structure with a second dictionary data structure, the second dictionary

[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

data structure including classes organized with their dependencies of a second binary software build of the software product by comparing classes and dependencies set forth in the first and second dictionary data structures." In contrast, Beck simply teaches inserting instrumentation classes between classes of an application. For example, Figure 1A and the text at col. 5, lines 14-60 illustrates how instrumentation classes X, Y and Z are inserted between classes A and B to facilitate instrumentation of executable software. However, Beck is simply not directed to comparing different builds of software, and as such does not disclose "comparing the first dictionary data structure with a second dictionary data structure, the second dictionary data structure including classes, organized with their dependencies, of a second binary software build of the software product by comparing classes and dependencies set forth in the first and second dictionary data structures."

To show build comparisons, the Office Action cites to Witchel. However, Witchel is not directed to object oriented programming and as such does not address dictionary data structures including classes and their dependencies. Rather, Witchel is directed to comparing disassemblies (see column 2, lines 4-17) or flow controls (see column 2 at lines 18-22). Essentially, Witchel teaches comparing code at an instruction level or flow level. However, this is significantly different than the more generally applicable class and dependency comparisons recited in the act of "comparing the first dictionary data structure with a second dictionary data structure, the second dictionary data structure including classes, organized with their dependencies, of a second binary software build of the software product by comparing classes and dependencies set forth in the first and second dictionary data structures" as recited by the claims of the present application.

The combination of Witchel and Beck does not arrive at what is claimed by the claims of the present application. Specifically, the claims recite: "comparing classes and dependencies set forth in the first and second dictionary data structures...." To establish a *prima facia* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143. Neither Witchel nor Beck singly or in combination teaches or suggests "comparing classes and dependencies set forth in the first and second dictionary data structures."

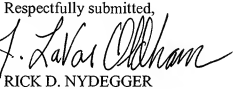
In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will

be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 10th day of January 2007.

Respectfully submitted,



RICK D. NYDEGGER
Registration No. 28,651
JENS C. JENKINS
Registration No. 44,803
J. LAVAR OLDHAM
Registration No. 53,409
Attorneys for Applicant
Customer No. 47973

RDN:JCJ:JLO:crb
CRB0000003143V001